

Message Text

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C O N F I D E N T I A L STATE 067483

E.O. 11652: GDS

TAGS: AORG, OCON, UNESCO

SUBJECT: UNESCO MEETING ON DRAFT DECLARATION ON RACE AND
RACIAL PREJUDICE, MARCH 13-20: DRAFT RESOLUTION

REFS: A) PARIS 08895; B) STATE 065971; C) PARIS 09017

1. DEPT. APPRECIATES USDEL'S PROMPT RESPONSE TO REQUEST
FOR USDEL RATIONALE FOR FAVORING DELETION OF PRELIMINARY
DRAFT RESOLUTION PARA 2(D) REGARDING INTERNATIONAL COURT
OF JUSTICE (REFTEL C).

2. DEPT. UNDERSTANDS THAT IT IS IMPOSSIBLE TO DETERMINE
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WHAT ACTIONS, IF ANY, UN SECRETARY GENERAL MIGHT RECOMMEND
TO ENABLE THE ICJ TO ASSIST IN COUNTERING AND ELIMINATING
RACIAL DISCRIMINATION BY MEANS OF EXISTING LEGAL INSTRU-
MENTS OR OTHERS TO BE CONCLUDED.

3. DEPT. NOT CONVINCED THAT UNSYG WOULD USE THIS RESOLU-
TION TO SEEK ADVISORY OPINION FROM COURT, THOUGH THIS IS

ONE POSSIBILITY. OTHER POSSIBILITIES COULD INCLUDE RECOMMENDATIONS FOR AMENDMENT TO ICJ STATUTE TO ENABLE INDIVIDUAL COMPLAINTS, OR TO ALLOW APPEALS FROM NATIONAL COURTS TO ICJ ON QUESTIONS OF INTERNATIONAL LAW BEFORE THE NATIONAL COURT, OR TO PERMIT STATES TO REQUEST ICJ ADVISORY

OPINIONS; OR AMENDMENTS TO EXISTING INTERNATIONAL CONVENTIONS TO PROVIDE FOR MANDATORY SETTLEMENT OF DISPUTES CONCERNING INTERPRETATION OF CONVENTIONS BY ICJ; OR CREATION OF A SPECIAL CHAMBER OF THE COURT ON THESE MATTERS.

4. DEPT. BELIEVES THAT ANY OF THESE PROPOSALS WOULD BE CONSISTENT WITH TERMS OF SUBPARA 2(D). HOWEVER, TO CLARIFY THIS, USDEL MIGHT SUGGEST THAT SUBPARA 2(D) BE AMENDED TO READ: "TO COMMUNICATE THE DECLARATION TO THE SECRETARY-GENERAL OF THE UNITED NATIONS WITH A REQUEST THAT HE PLACE BEFORE THE UNGA APPROPRIATE PROPOSALS TO STRENGTHEN THE ROLE OF THE ICJ IN SETTLING DISPUTES CONCERNING THE ELIMINATION OF RACIAL DISCRIMINATION, BY MEANS OF EXISTING LEGAL INSTRUMENTS, AMENDING EXISTING LEGAL INSTRUMENTS, OR NEW LEGAL INSTRUMENTS."

5. MOREOVER, DEPT. SUPPORTS USE OF POWER WHICH SYG ALREADY HAS TO RECOMMEND THAT UNGA SEEK ADVISORY OPINIONS FROM THE ICJ WHERE THEY ARE NEEDED. WE DO NOT BELIEVE CONFIDENTIAL

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THAT THE SYG IS LIKELY TO MAKE INAPPROPRIATE RECOMMENDATIONS IN THIS RESPECT.

6. FURTHER, DEPT. INCLINED TO BELIEVE WE HAVE ADEQUATE PRACTICAL PROTECTION AGAINST UNWISE RECOMMENDATION OF SYG BECAUSE OF OPPORTUNITY TO CONSULT WITH SYG, BECAUSE ISSUE WOULD BE CONSIDERED IN UNGA, AND BECAUSE SUBPARA 2(D) TIES RECOMMENDATION TO INTERNATIONAL INSTRUMENTS, WHICH U.S. COULD DECLINE TO RATIFY.

7. FINALLY, PRESIDENT'S REPORT TO CONGRESS ON IMPROVING THE UN HAS STATED U.S. WOULD SUPPORT METHODS TO STRENGTHEN THE ROLE OF THE ICJ, WHICH HAS LONG BEEN U.S. POLICY.

8. ACCORDINGLY, DEPT. REQUESTS USDEL TO SUPPORT SUBPARA 2(D), PREFERABLY WITH DRAFTING CHANGE SUGGESTED IN PARA 4, IF IT IS OBTAINABLE. VANCE

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